

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PETER LINDNER,

Plaintiff

-against-

COURT SECURITY OFFICER (CSO) NEWELL, CSO
MUSCHITIELLO, CSO JOHN DOE #1, CSO JOHN DOE #2, 2ND
CIRCUIT COURT OF APPEALS CLERK MARGARET LAIN,
ASSISTANT US MARSHAL (USM) JAMES HOWARD , USM
BRIAN MURPHY, USM BETTY ANN PASCARELLA, WITNESS
SECURITY S. JONES, CONGRESSIONAL AFFAIRS CHIEF D.
DISRUD, US ATTORNEY PREET BHARARA, USM JOSEPH R.
GUCCIONE,

Defendants

**Civil Action No. 11 cv 08365
(AJN-MHD)**

MOTION TO USDJ NATHAN
REGARDING AUSA
UNSUCCESSFUL INTENT TO
DECEIVE

Tuesday, April 16, 2013 6:17 PM

To USDJ Nathan:

I ask Your Honor still find an (unsuccessful) attempt in "intent to deceive" which is a criminal misdemeanor under NY State law for all of

1. USMS Auerbach and
2. AUSA Harwood and
3. US Attorney Preet Bharara.

Any attorney or counselor includes even the loftiest lawyer or counselor among us / them. The law does not exempt USMS, US Attorneys, or their subordinates, in NY Judiciary §487 on "intent to deceive" any Court in NY State (to wit, the 2nd Circuit Court of Appeals).

Here's the letter I emailed Harwood and Akal as attachment 1.

cc: **Chief Judge Preska**, for the purpose of discipline of the 3 attorneys / counselors:

I am referring this matter also to Your Honor's Committee on Discipline¹ of Attorney as per SDNY Local Rules. The "clear and convincing evidence" is in my submissions for this case 11

¹ The rules state:

"Local Civil Rule 1.5. Discipline of Attorneys

(a) Committee on Grievances. The Chief Judge shall appoint a committee of the Board of Judges known as the Committee on Grievances, which under the direction of the Chief Judge shall have charge of all matters relating to the discipline of attorneys. The Chief Judge shall appoint a panel of attorneys who are members of the bar of this Court to advise or assist the Committee on Grievances. At the direction of the Committee on Grievances or its chair, members of this panel of attorneys may investigate complaints, may prepare and support statements of charges, or may serve as members of hearing panels.

cv 8365 *Lindner v. CSO Newell, et al.* I wish to be present at the meeting on this, so as to confront these alleged lawbreakers.

cc: DOJ OIG: Please take this into account why your vassals in the USMS (and FBI)² did not respond to your letter of 2010 and stated incorrectly under oath to this Honorable Court that discovery should not be commenced, when such a flaw would have been uncovered, and thus perhaps indicates a plan to short-circuit the due process which would have rectified the situation. Of course the US Attorneys are not naïve, and realized that to do so would have exposed the US Government defendants to perjury and other violations, which USDJ Nathan saw fit to release them from my suit "with prejudice", despite that the USMS and the AUSA were not following protocol and due process for me as a pro se (read as "poor" in "to the poor and to the rich" litigants³ alike) plaintiff. USDJ Nathan denied me the right to question the defendants which would have clarified their errors, felony actions, "intent to deceive" and perjury, or even to allow Her Honor to question these clearly unethical (criminal misdemeanor) acts by attorneys in a federal court in NY State.

Humbly and sincerely,

By: /s/ Peter Lindner Dated: New York, NY the 16th Day of April , 2013
Peter Lindner
Plaintiff, *Pro Se*
1 Irving Place, Apt. G-23-C
New York, New York 10003
Home/ Fax: 212-979-9647

(b) Grounds for Discipline or Other Relief. Discipline or other relief, of the types set forth in paragraph (c) below, may be imposed, by the Committee on Grievances, after notice and opportunity to respond as set forth in paragraph (d) below, if any of the following grounds is found by clear and convincing evidence: [...]

(5) In connection with activities in this Court, any attorney is found to have engaged in conduct violative of the New York State Rules of Professional Conduct as adopted from time to time by the Appellate Divisions of the State of New York. In interpreting the Code, in the absence of binding authority from the United States Supreme Court or the United States Court of Appeals for the Second Circuit, this Court, in the interests of comity and predictability, will give due regard to decisions of the New York Court of Appeals and other New York State courts, absent significant federal interests"

[p.p 10-11 of 126, Effective February 25th, 2013, Local Rules of the United States District Courts for the Southern and Eastern Districts of New York,
<http://www.nysd.uscourts.gov/rules/rules.pdf>

² And the supposedly equal branch of government in the "Administrative Office of the US Courts" in your DOJ OIG letter to the 3 groups dated Sep 13, 2010.

³ I refer to

" 28 USC § 453 - Oaths of justices and judges

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, XXX XXX, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as XXX under the Constitution and laws of the United States. So help me God." "

<http://www.law.cornell.edu/uscode/text/28/453>

Cell: 917-207-4962

Email: nyc10003@nyc.rr.com

Attachment 1: Lindner email response to Assistant US Attorney Harwood and US Attorney Preet Bharara attempting to right their "intent to deceive" the 2nd Circuit Court of Appeals

I note that I grammatically erred by writing Your Honor instead of Her Honor USDJ Nathan in the first paragraph.

From: [Peter Lindner](#)

Sent: Tuesday, April 16, 2013 6:12 PM

To: [Harwood, Christopher \(USANYS\)](#)

Cc: jwoltz@littler.com ; [Janice Tate](#)

Subject: Re: Lindner v. CSO Newell, et al., No. 11-Civ.-8365 (AJN): request to docket prior letter and attachments

AUSA Harwood & Akal:

I note that today Tuesday, April 16, 2013 5:57 PM I received an email of 4/16/2013 3:37 PM from AUSA Harwood to Your Honor which requests that the Third Declaration be filed electronically.

I also note that the law NY Judiciary §487 on “intent to deceive” any Court (specifically, the **2nd Circuit Court of Appeals**) in NY State, specifically includes attempts, whether or not successful, and in this situation, AUSA Harwood caved in after I filed electronically to put the document (perjured / "intent to deceive" the Court), and thus represents an unsuccessful attempt, which is still a criminal misdemeanor.

Please also explain whether USMS General Counsel Auerbach has explained why the two (2) letters of complaint were not recorded nor indexed, and why I made a 10 minute call to that department which found the 2010 documents. That department said they report to Auerbach. How many other documents were separately “recorded” and “indexed” but Auerbach claimed under penalty of perjury that no such other documents existed? Have they now been all indexed together, and have the other parties been notified for the other documents? (Specifically, righting a wrong after the discovery, much like a doctor would notify patients of an error that affects them all.) Can we file a class action lawsuit on this? Are you reprimanding Auerbach for his staunch without-a-doubt tone of his first two declarations? Do you take any responsibility for this happening, e.g. by refusing to meet with me where I could have had you meet with my Confidential Informant and/or have shown you the evidence in advance, or we could have gone to discovery where that would have been revealed?

Specifically, I would like your boss Preet Bharara who is signed on to this as to respond, and then to explain why not only my letter was overlooked, not recorded, ostensibly not indexed (although it was indexed enough for the Virginia office to find it during my phone call in 10 minutes), and also why the DOJ OIG letter was ignored, and did you respond to DOJ OIG for your and Auerbach’s negligence, with an eye to getting your case dismissed with prejudice before discovery, where the facts would have shown that USMS covered up this information?

Regards,

Peter Lindner
nyc10003@nyc.rr.com
peter4apple@nyc.rr.com
1 Irving Place, #G-23-C
NYC, NY 10003
cell: 917-207-4962
home/fax: 212-979-9647

cc: via SDNY Pro Se Office and US mail, since I'm not allowed to email USDJ Nathan
USMS General Counsel Auerbach, via Janice Tate
DOJ OIG William Cella, 1 Battery Place, NYC, NY

From: [Harwood, Christopher \(USANYS\)](#)
Sent: Tuesday, April 16, 2013 3:35 PM
To: NathanNYS Chambers@nysd.uscourts.gov
Cc: nyc10003@nyc.rr.com ; jwoltz@littler.com
Subject: Lindner v. CSO Newell, et al., No. 11-Civ.-8365 (AJN): request to docket prior letter and attachments

Respectfully submitted,

From: Harwood, Christopher (USANYS)
Sent: Friday, October 12, 2012 3:44 PM
To: NathanNYS Chambers@nysd.uscourts.gov
Cc: Peter Lindner (nyc10003@nyc.rr.com); Woltz, Jennie D. (JWoltz@littler.com); Jones, David (USANYS)
Subject: Lindner v. CSO Newell, et al., No. 11-Civ.-8365 (AJN) (MHD)

Dear Judge Nathan,

This Office represents the Federal Defendants in the above-referenced lawsuit, in which Plaintiff is pursuing pro se claims under the Federal Tort Claims Act and Bivens. Attached please find a letter requesting: (1) a stay of discovery pending resolution of the Federal Defendants' motion to dismiss; and (2) leave to file the attached declaration in further support of that motion.

Respectfully submitted,
Christopher B. Harwood
Assistant United States Attorney
Southern District of New York
86 Chambers Street
New York, NY 10007
Telephone: (212) 637-2728
Facsimile: (212) 637-2786
Email: christopher.harwood@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PETER LINDNER,

Plaintiff

-against-

COURT SECURITY OFFICER (CSO) NEWELL, CSO
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BRIAN MURPHY, USM BETTY ANN PASCARELLA, WITNESS
SECURITY S. JONES, CONGRESSIONAL AFFAIRS CHIEF D.
DISRUD, US ATTORNEY PREET BHARARA, USM JOSEPH R.
GUCCIONE,

Defendants

**Civil Action No. 11 cv 08365
(AJN-MHD)**

AFFIRMATION OF SERVICE

Tuesday, April 16, 2013 6:17 PM

Affirmation Of Service:

I, Peter W. Lindner, declare that I have served a copy of the attached "Motion To USDJ Nathan Regarding AUSA Unsuccessful Intent To Deceive" dated Apr 15, 2013 upon these people whose addresses are:

The Honorable USDJ Alison J. Nathan (via the SDNY Pro Se Office)

SDNY

500 Pearl Street

NYC, NY 10007

NathanNYSDChambers@nysd.uscourts.gov

Courtroom: 23B

Chambers Phone: (212) 805-0278

Deputy Phone: (212) 805-0142

Chief Judge Preska – **re possible misbehavior by Attorneys in SDNY**
SDNY

Gerald M. Auerbach, General Counsel

U.S. Marshals Service

2604 Jefferson Davis Highway

Alexandria, VA 22301

Voice: 202-307-9054

Fax: 703-308-0058

Email: gauerbach@usms.doj.gov

Preet Bharara

US Attorney, SDNY

Christopher B. Harwood, Assistant US Attorney (AUSA)

86 Chambers St, 3rd Floor

NY, NY 10007

Phone: 212-637-2728
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Janice Tate
202-307-9287
Asst to USMS General Counsel Auerbach, Esq.
Janice.tate@usdoj.gov

Office of Inspection 202 307-9155
Sharon Duncan, Asst Chief Inspector
Fax: 202-307-9268 O.of I. is in charge of the US Marshal's for civil misconduct complaints;
Wednesday, December 28, 2011 2:21 PM
Email: internal.affairs@usdoj.gov

Jennie Woltz, Esq., an Associate
Kurt Peterson, Esq. Partner
Littler Mendelson
900 Third Ave, 7th Floor
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Fax: 212-832-2719
Email: jWoltz@littler.com

By: /s/ Peter Lindner Dated: New York, NY on 16th Day of April , 2013

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